

CRIMINAL COMPLAINT

United States District Court	DISTRICT of ARIZONA
United States of America v. Jonathan VanScoyk	DOCKET NO. MAGISTRATE'S CASE NO. 20-09042MJ
Complaint for violation of Title 18, United States Code § 1344, 1349, and 2	
<p>COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION:</p> <p style="text-align: center;">COUNT ONE <i>Conspiracy - 18 U.S.C. § 1349</i></p> <p>From on or about March 18, 2020 through on or about August 7, 2020, the exact dates unknown, in the District of Arizona and elsewhere, the Defendant, JONATHAN VANSCHOYK, did knowingly and willfully combine, conspire, confederate, agree, and have a tacit understanding with Austin VanScoyk, Sam Fiedler, and others known and unknown to the United States to execute a scheme and artifice to defraud a financial institution, the deposits of which were insured by the FDIC ("Federal Deposit Insurance Corporation"), and to obtain money, funds, and credits owned by and under the custody and control of the aforementioned financial institution by means of materially false and fraudulent pretenses, representations, and promises and by omission of material facts, in violation of Title 18, United States Code, Section 1344.</p> <p style="text-align: center;">Purpose of the Scheme to Defraud</p> <p>The purpose of the scheme was for defendant to unjustly enrich himself by obtaining Paycheck Protection Program ("PPP") loan proceeds under false and misleading pretenses, including by making false statements about the number of employees at the businesses that applied for PPP loans, and the intended use of the loan proceeds.</p> <p style="text-align: center;">Manner and Means</p> <p>Defendant, together with others known and unknown to the United States, conspired to submit false materials, such as a false PPP loan application, false IRS Form 941s, and false payroll documentation, to financial institutions to obtain PPP loan funding. As a result of and based on defendant and his co-conspirators' false representations, certifications, and supporting documents, federally insured lenders issued a \$638,300 PPP loan to Bright Edge LLC ("Bright Edge"), an entity controlled by Austin VanScoyk, and a \$594,830 PPP loan to Grand American Homes LLC ("Grand American"), an entity controlled by the defendant, Jonathan VanScoyk.</p> <p>All in violation of Title 18, United States Code, Section 1349.</p> <p style="text-align: center;">COUNT TWO <i>Bank Fraud - 18 U.S.C. § 1344</i> <i>Aiding and Abetting Bank Fraud - 18 U.S.C. § 2</i></p> <p>On or about April 29, 2020, in the District of Arizona and elsewhere, the Defendant, JONATHAN VANSCHOYK, did knowingly, and with intent to defraud, execute, and attempt to execute, and cause the execution of, a scheme and artifice to defraud a federally insured financial institution, which scheme and artifice employed a material falsehood, and did knowingly, and with intent to defraud, execute, and attempt to execute, and cause the execution of a scheme and artifice to obtain moneys and funds owned by, and under the custody and control of a financial institution, by means of false and fraudulent pretenses, representations, and promises relating to a material fact, that is, by causing Financial Institution 4 ("Institution 4"), a FDIC insured financial institution headquartered in Salt Lake City, Utah, to deposit \$594,830 into an account in the name of Grand American that was controlled by the defendant, in violation of Title 18, United States Code, Sections 1344 and 2.</p>	
<p>BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED:</p> <p>Complainant, Wayne K. Schaltenbrand, as and for probable cause, states the following: I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been since April 2003. I am currently assigned to the FBI Sierra Vista Resident Agency, Sierra Vista, Arizona, and a member of the Cochise Border Corruption Task Force. To become an FBI SA, I attended seventeen (17) weeks of training at the FBI Academy in Quantico, Virginia where I was trained to investigate violations of United States laws, to collect evidence in cases in which the United States is, or may be, a party in interest, and to perform other duties imposed by law as well as other specialized federal law enforcement training. (Continued)</p>	
<p>DETENTION REQUESTED COMPLAINT REVIEWED by AUSA Jane Westby <i>Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge.</i></p>	<p>SIGNATURE OF COMPLAINANT <i>Wayne K. Schaltenbrand</i> OFFICIAL TITLE & NAME: Wayne Schaltenbrand, Special Agent, FBI</p>
Signed by the complainant and sworn to before me telephonically.	
<p>SIGNATURE OF MAGISTRATE JUDGE <i>Leah A. Bowman</i></p>	<p>DATE December 10, 2020</p>

See Federal rules of Criminal Procedure Rules 3 and 54

CC: USM(2), AUSA, PTS

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I have investigated violations of federal statutes governing various types of white-collar crime, including wire fraud, bank fraud, and money laundering. .

I am familiar with, and have participated in, the normal methods of investigation, including, but not limited to, visual surveillance, conducting interviews, drafting and executing seizure warrants, executing search and arrest warrants, and conducting consensually monitored audio and video recordings

The following information is based upon, among other things, my review of records and documents obtained during the course of this investigation, information conveyed by other employees or agents of the FBI, agents of the Office of Inspector General of the United States Small Business Administration ("SBA"), U.S. Treasury Inspector General for Tax Administration ("TIGTA"), and witnesses, to me orally or via written communication, and my experience and background as an FBI SA.

INTRODUCTION

There is probable cause to believe JONATHAN VANSCOYK ("VANSCOYK"), through his corporate entity Grand American, submitted false and fraudulent applications to obtain loans through the PPP guaranteed by the SBA. Based on the false and fraudulent applications, VANSCOYK successfully obtained a PPP loan of \$594,830. As set forth below, there is probable cause to believe that the PPP loans were obtained based on false and fraudulent information about the number of employees and the gross payroll expenses of the business, information that was provided by VANSCOYK and his co-conspirators.

The Paycheck Protection Program

The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted in or around March 2020 and is designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of up to \$349 billion in forgivable loans to small businesses for job retention and certain other expenses, through the PPP. In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.

In order to obtain a PPP loan, a qualifying business must submit a PPP loan application, which is signed by an authorized representative of the business. The PPP loan application requires the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. In the PPP loan application, the small business (through its authorized representative) must state, among other things, its: (a) average monthly payroll expenses; and (b) number of employees. These figures are used to calculate the amount of money the small business is eligible to receive under the PPP. In addition, businesses applying for a PPP loan must provide documentation showing their payroll expenses.

A participating financial institution (the lender) must process a PPP loan application. If the lender approves a PPP loan application, it funds the PPP loan using its own monies, which the SBA guarantees 100%. The lender transmits to the SBA, in the course of processing the loan, data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees. The SBA oversees the PPP, which has authority over all loans. To date, over 5,000 lending institutions, mostly banks and credit unions, have participated in the PPP.

The business receiving the PPP loan proceeds must spend the funds on certain permissible expenses: payroll costs, interest on mortgages, rent, and utilities. The PPP allows the interest and principal on the PPP loan to be entirely forgiven if the business spends the loan proceeds on these expense items within a designated period of time and uses a specified portion of the PPP loan proceeds on payroll expenses.

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Background of VANSCOYK and Co-conspirators

VANSCOYK was an individual residing in Arizona who claimed partial ownership of Grand American, Bright Edge, and Aston Homes LLC ("Aston Homes"), Arizona limited liability corporations. **VANSCOYK** was the applicant for a PPP loan application on behalf of Grand American.

Austin VanScoyk was an individual residing in Arizona who claimed ownership of Bright Edge and Aston Homes, Arizona limited liability corporations. Austin VanScoyk submitted PPP loan applications on behalf of Bright Edge and Aston Homes.

Sam Fiedler was an individual residing in Arizona who was an accountant for Bright Edge. Sam Fiedler submitted PPP loan applications on behalf of Yellow Turtle Shell LLC ("Yellow Turtle") and Aston Homes.

Individual 1 was an individual residing in Arizona who claimed partial ownership of Aston Homes. Individual 1 was married to Austin VanScoyk.

Individual 2 was an individual residing in Arizona who served as the Statutory Agent for Grand American, Bright Edge, and Aston Homes.

Overview of the Scheme

VANSCOYK and his co-conspirators submitted fraudulent applications submitted in the names of companies they controlled to lenders approved by the SBA. **VANSCOYK** and his co-conspirators sought more than \$2.5 million in PPP funds, purportedly for the purpose of paying employees. Those purported employees either were not actual employees or earned a fraction of what **VANSCOYK** and his co-conspirators claimed in the PPP applications. Collectively, **VANSCOYK** and his co-conspirators falsely claimed the companies they controlled paid millions of dollars in payroll in the first quarter of 2020. State and bank records, however, show little to no payroll expense during this period. The lenders approved two applications and paid \$1,233,130.00 in PPP loans.

The Lending Institutions and Banks

Financial Institution 1 ("Institution 1") was a FDIC insured financial institution headquartered in St. Petersburg, Florida. Institution 1 participated in the SBA's PPP as a lender, and as such, was authorized to lend funds to eligible borrowers under the terms of the PPP.

Financial Institution 2 ("Institution 2") was a FDIC insured financial institution headquartered in Festus, Missouri. Institution 2 participated in the SBA's PPP as a lender, and as such, was authorized to lend funds to eligible borrowers under the terms of the PPP.

Financial Institution 3 ("Institution 3") was a FDIC insured financial institution headquartered in Oklahoma City, Oklahoma. Institution 3 participated in the SBA's PPP as a lender, and as such, was authorized to lend funds to eligible borrowers under the terms of the PPP.

Institution 4 participated in the SBA's PPP as a lender, and as such, was authorized to lend funds to eligible borrowers under the terms of the PPP.

Bank 1 ("Bank 1") was a FDIC insured financial institution headquartered in New York, New York. In November 2019, **VANSCOYK** opened a bank account at Bank 1 on behalf of Grand American ("Account 2133").

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Fraudulent PPP Loan Applications

VANSCOYK and his co-conspirators submitted the following PPP loan applications:

<u>Business</u>	<u>Application Date</u>	<u>Applicant</u>	<u>Bank</u>	<u>Amount Requested</u>
Bright Edge	04/03/20	Austin VanScoyk	Institution 1	\$638,355
Yellow Turtle	04/20/20	Sam Fiedler	Institution 2	\$715,520
Aston Homes	04/20/20	Sam Fiedler	Institution 2	\$844,500
Aston Homes	04/20/20	Sam Fiedler	Institution 3	\$844,500
Grand American	04/27/20	VANSCOYK	Institution 4	\$594,830
Aston Homes	04/27/20	Individual 1	Institution 4	\$844,510
Aston Homes	04/27/20	Individual 1	Institution 4	\$844,510

False Statements on PPP Applications

VANSCOYK and his co-conspirators made a number of false representations and submitted several documents in support of the Bright Edge, Yellow Turtle, Aston Homes, and Grand American PPP loan applications. A review of the submitted documents, records obtained from the IRS, and information derived through interviews, demonstrates that documents provided to the financial institutions in support of the PPP loan application were falsified and/or included false statements about Bright Edge, Yellow Turtle, Aston Homes, and Grand American.

For the Bright Edge application **VANSCOYK** and his co-conspirators submitted a 2018 Federal Partnership Income Tax return. Attached to the back of the return was a list with the title "Bright Edge, LLC" purporting to report wages of \$3,064,105.15, and an average monthly payroll expense of \$255,342.10 for 171 employees. According to IRS records, Bright Edge filed an IRS Form 941 for the fourth quarter of 2018 reporting total wages of \$98,000 for seven employees. No additional IRS Forms 941 were filed for 2018. Additionally, Individual 2, the Statutory Agent for Bright Edge from December 12, 2018 until he was terminated on June 11, 2020, was interviewed on July 9, 2020. According to Individual 2, Bright Edge had approximately seven employees.

..... For the Yellow Turtle application **VANSCOYK** and his co-conspirators submitted an IRS Form 941, purporting to report wages and federal payroll tax information for Yellow Turtle for the first quarter of 2020. According to the form, Yellow Turtle claimed to have 40 employees in the first quarter and paid wages, tips and total compensation totaling \$572,416. According to IRS records, there have been no tax returns filed for the business, to include IRS Forms 941.

For the Aston Homes applications **VANSCOYK** and his co-conspirators submitted an IRS Form 941, purporting to report wages and federal payroll tax information for Aston Homes for the first quarter of 2020. According to the form, Aston Homes claimed to have 49 employees in the first quarter and paid wages, tips and total compensation totaling \$675,609.60. According to IRS records, there have been no tax returns filed for the business, to include IRS Forms 941. Additionally, Individual 2, the Statutory Agent

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for Aston Homes from August 28, 2018 until he was terminated on June 11, 2020, was interviewed on July 9, 2020. According to Individual 2, Aston Homes did not have any employees, demonstrating that any document purporting to reflect a payroll for Aston Homes would be fraudulent.

For the Grand American application VANSKOYK and his co-conspirator submitted an IRS Form 941, purporting to report wages and federal payroll tax information for Grand American for the first quarter of 2020. According to the form, Grand American claimed to have 36 employees in the first quarter and paid wages, tips and total compensation totaling \$475,865.60. According to IRS records, there have been no tax returns filed for the business, to include IRS Forms 941. Additionally, Individual 2, the Statutory Agent for Grand American from September 17, 2018 until he was terminated on June 11, 2020, was interviewed on July 9, 2020. Individual 2 was shown the payroll details document purported to list payroll employees for Grand American. According to Individual 2, Grand American did not have any employees, demonstrating that any document purporting to reflect a payroll for Grand American would be fraudulent.

The Grand American PPP loan application lists VANSKOYK as the sole owner of Grand American. The application identified VANSKOYK as the "Primary Contact" for Grand American and having 100% ownership. On April 28, 2020, VANSKOYK signed a Promissory Note in support of the Grand American PPP loan application that he electronically signed using IP Address 206.128.79.95.

VANSKOYK was interviewed by FBI agents on September 11, 2020. During the interview VANSKOYK stated that Sam Fiedler and Austin VanScoyk submitted the initial applications for Grand American, but he "signed off" on the Grand American PPP loan application. When VANSKOYK was asked why they submitted loan applications for multiple related entities, VANSKOYK stated that they were trying to "grab more money." When asked what they intended to use the PPP loan proceeds for, VANSKOYK stated they wanted to "reboot" the business.

According to Institution 4's records, the PPP loan for Grand American was approved and disbursed. Records from Bank 1 show the PPP loan proceeds of \$594,830 were received in Account ending in 2133 on or about April 29, 2020. According to Institution 1's records, the PPP loan for Aston Homes was approved and disbursed. Records from Bank 1 show the PPP loan proceeds of \$638,300 were received in Account ending in 3551 on or about April 27, 2020. VANSKOYK attempted to conceal his fraudulent scheme through a variety of means, including attempting to convince an independent contractor to fraudulently claim to be an employee of Grand American.

Based on my training and experience, and the information provided in this affidavit, I respectfully submit that there is probable cause to believe that VANSKOYK committed violations of 18 U.S.C. § 1349 (Conspiracy to Commit Bank Fraud) and 18 U.S.C. § 1344 and 2 (Bank Fraud and Aiding and Abetting Bank Fraud).